

INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

In this regulations package there are references to "future date" which will be the effective date of these proposed regulations. The effective date will be the first of the month following the 30th day after the approval and filing of these regulations with the Secretary of State by the Office of Administrative Law (OAL). The Department will coordinate with OAL so that before OAL files these regulations with the Secretary of State, the "future date" will be replaced by the actual effective date of these regulations and the handbook language will disappear.

Sections 47-260.13 and .14Specific Purpose:

These amendments are proposed to increase the health and safety of the children who are receiving government subsidized child care services. To address this health and safety issue, the proposed regulations stipulate that license-exempt providers applying for Trustline registration will not be paid while the application process is pending and reflect the effective date of the proposed changes. Specifically, these sections would be amended to conform policy to statute and to prevent a provider from being compensated with a government subsidy prior to being Trustline registered.

Factual Basis:

Current regulations are inconsistent with Health and Safety Code Sections 1596.60-1596.68. Existing statute requires that license-exempt child care providers who receive compensation for services provided for a California Work Opportunity and Responsibility to Kids (CalWORKs) client must be Trustline registered before payment commences. However, current policy allows the counties and contractors to issue payment prior to registration. The California Department of Social Services (CDSS) is requesting non-emergency regulations to increase the safety of the children receiving subsidized child care by implementing the process changes and updating the Manual of Policies and Procedures (MPP) related to the Trustline Program to conform policy to the existing statute.

Sections 47-260.2 et seq.Specific Purpose:

These sections would be added in order to relocate information regarding Trustline-exempt child care providers from Section 47-610.11 and .12 which deals with eligible providers. The proposed regulations would remove the exemption for great-grandparents, great-aunts,

and great-uncles. In addition, handbook material from Section 47-610.111 and .112 would be placed into regulation as Sections 47-260.211 and .212.

Factual Basis:

The proposed amendments relocate these sections so that all eligibility criteria for child care providers are in the same section. The relocation of these sections allow for clarity and accessibility of pertinent information. Existing regulations exempt great-grandparents, great-aunts, and great-uncles from being Trustline registered. Disallowing the exemption for these individuals will conform with Health and Safety Code Section 1596.67.

Sections 47-260.3 through 47-260.58

Specific Purpose:

These sections have been renumbered for formatting purposes.

Factual Basis:

These nonsubstantive amendments are necessary to maintain consistency in formatting and for clarity.

Sections 47-301.1 through 47-301.271(a)

Specific Purpose:

"Family" or "applicant/recipient" would be changed to "client" throughout the proposed regulations to be consistent with the terminology used in other sections of the CalWORKs regulations.

Factual Basis:

The regulations would be amended to provide uniform terminology among the various sections of the CalWORKs regulations.

Sections 47-301.1 through 47-301.22(e)

Specific Purpose:

The proposed regulations would require the informing notice to include a statement that: (a) license-exempt providers must be Trustline registered in order to be reimbursed for child care services; (b) a client may pay for child care, but the county will only pay the provider; (c) the provider may receive 60 days of retroactive payment once Trustline registered; and (d) as soon as child care services begin, a client must tell their provider to submit a Trustline application and Health and Safety Certification.

Factual Basis:

Clients need to be informed about the Trustline process so that they may understand who needs to be Trustlined and the potential liability of choosing a provider who cannot be Trustline registered in a timely manner, if at all. These amendments are proposed to provide that information.

Sections 47-430.1 through 47-430.22

Specific Purpose:

"Family" or "applicant/recipient" would be changed to "client" throughout the proposed regulations to be consistent with the terminology used in other sections of the CalWORKs regulations.

Factual Basis:

The regulations would be amended to provide uniform terminology among the various sections of the CalWORKs regulations.

Section 47-430.2

Specific Purpose:

In order to increase the health and safety of the children receiving government subsidized child care services, the proposed regulations prohibit subsidized payments to child care providers who are required to, but have not been, Trustline registered. Language would be added to allow counties to issue retroactive payments for up to 60 calendar days, from the date that child care services were requested, if the provider becomes Trustline registered. If the child care services were provided in the client's home, payment may be made directly to the client as the employer. If the provider fails to submit the Trustline application and the Health and Safety Certification within seven days after child care services were requested, the provider, upon becoming Trustline registered, shall be paid retroactively, only for the period beginning the date the county or contractor receives the Trustline application.

Factual Basis:

Current regulations are inconsistent with Health and Safety Code Sections 1596.60-1596.68. Existing statute requires that license-exempt child care providers who receive compensation for services provided for a CalWORKs client must be Trustline registered before payment commences. However, current policy allows the counties to issue payment prior to registration, thereby allowing payment to be made even when children are placed in potentially unsafe environments. Authorizing counties to issue retroactive payments will allow eligible providers to be reimbursed for child care services while preventing providers from being reimbursed prior to being Trustline registered. Education Code Section 8357(e) allows direct payments to be made to the client as the employer if child care is provided in the home. The seven day requirement will expedite the Trustline and Health and Safety

Certification processes process, thereby allowing CalWORKs clients to obtain needed child care services in a timely manner.

Section 47-601.1

Specific Purpose:

In order to increase the health and safety of the children who are receiving government subsidized child care services, this section would be amended to establish that license-exempt providers be cleared through the Trustline process prior to receiving payment for child care services.

Factual Basis:

Current regulations are inconsistent with Health and Safety Code Sections 1596.60-1596.68. Existing statute requires that license-exempt child care providers who receive compensation for services provided for a CalWORKs client must be Trustline registered before payment commences. However, current policy allows the counties to issue payment prior to registration, thereby authorizing payment even when children are placed in a potentially unsafe environment. CDSS is proposing these non-emergency regulations to help ensure the safety of the children receiving subsidized child care and to implement the process changes and update the MPP related to the Trustline Program to conform policy to the existing statute.

Section 47-602(r)

Specific Purpose:

This definition is being adopted to increase the health and safety of the children who are receiving government subsidized child care services by clearly defining a registered Trustline child care provider as a person whose background check has been completed and approved.

Factual Basis:

The proposed regulations define a registered Trustline child care provider as specified by Health and Safety Code Section 1596.605(b).

Section 47-602(t)

Specific Purpose:

This definition is being amended to expand the definition of Trustline registry.

Factual Basis:

The proposed regulations define the Trustline registry as specified by Health and Safety Code Section 1596.607.

Section 47-610 et seq.

Specific Purpose:

This section would be repealed. Sections 47-160.1 through .12 would be relocated to Sections 47-260.2 through .22. Sections 47.610.2 through .22 would be repealed as the Prior Income Disregard Reimbursement no longer applies.

Factual Basis:

Regulation Sections 47-160.1 through .12 will be relocated so that all eligibility criteria for child care providers are located in the same section. This relocation allows for clarity and accessibility of pertinent information. The Prior Income Disregard Reimbursement was repealed by Assembly Bill 1542, Chapter 270, Statutes of 1997, which became effective January 1, 1998.

Section 47-620.1

Specific Purpose:

"Families" has been changed to "clients" to be consistent with the terminology used in other sections of the CalWORKs regulations. The proposed regulations also repeal the requirement that counties or contractors provide criminal background check cards to Trustline applicants and includes a self-disclosure statement, and LiveScan forms and instructions, and specifies that the client must provide the Trustline application package and information to the provider of their choice.

Factual Basis:

The regulations have been changed to provide uniform terminology among the various sections of the CalWORKs regulations. Repealing the requirement that counties or contractors provide criminal background check cards to Trustline applicants is necessary, as the Department of Justice no longer accepts fingerprint cards to conduct background checks. Welfare and Institutions Code Section 11324 requires counties and contractors to obtain a self-disclosure statement from the provider as to his or her criminal background. Language was added as LiveScan automated fingerprinting process is currently being used to process Trustline applications. Since the client is given the Trustline application package by the county or contracting agency, language was added to direct the client to provide the Trustline application package to the provider of their choice.

Section 47-620.11

Specific Purpose:

To increase the health and safety of children who are receiving government subsidized child care, this section would be amended to expedite the Trustline application process. The number of days a provider has to submit a completed Trustline application would be reduced from 28 days to seven days from the date that child care services begins. Trustline applicants who reside in counties that have limited access to the automated fingerprint and application process are given an additional seven days to submit a completed Trustline application.

Factual Basis:

Existing regulations allow child care providers 28 days to submit a Trustline application. Limiting the time period during which child care is provided by a person who has not submitted a Trustline application reduces a potential risk to children's health and safety. In addition, the seven day application requirement will expedite the Trustline process, thereby allowing CalWORKs clients to obtain needed child care services in a timely manner so that they can participate in their required welfare-to-work activities. However, some counties do not have access to the automated fingerprinting system. In these counties, additional time is needed, as the applications are processed by mail. Limiting retroactive payments prohibits a child care provider from being paid retroactively for an extended period of care prior to being Trustline registered pursuant to Health and Safety Code Sections 1596.60-1596.68.

Section 47-620.111 and .112

Specific Purpose:

To ensure the health and safety of the children receiving government subsidized child care services, the time period within which a provider must submit a completed Trustline application would be decreased to seven days. Therefore, the language that allows counties to establish a shorter time period to process Trustline applications would be repealed, as it is no longer necessary. In addition, the language requiring counties to provide temporary child care and discontinue child care if the Trustline application is not received by the 28th day from the date that child care services began would also be repealed, as it is also no longer necessary.

Factual Basis:

Section 47-620.11 of the proposed regulations states that providers will have seven days from the date that child care services began to submit a Trustline application. This will not apply to providers residing in counties that have limited access to the automated fingerprinting process, in which case an additional seven days are granted. These timeframes are reasonable for both Trustline applicants and CalWORKs families accessing child care services.

New Handbook Section 47-620.111

Specific Purpose:

This handbook section was added to state the importance of a provider submitting a completed Trustline application so that the client does not incur additional child care costs. This section also reminds counties that providers can only be paid retroactively for child care services up to 60 days from the date that child care services began as long as the provider becomes Trustline registered.

Factual Basis:

The proposed handbook section is for informational purposes.

Sections 47-620.2 through 47-620.6

Specific Purpose:

These sections have been renumbered for formatting purposes.

Factual Basis:

These nonsubstantive revisions are necessary to maintain consistency in formatting.

Sections 47-620.2 through 47-620.32

Specific Purpose:

In order to increase the health and safety of the children receiving subsidized child care services, the proposed regulations prohibit subsidized payments to child care providers who are required to, but have not been, Trustline registered. These sections would be added to authorize counties and contractors to issue child care payments to providers only after they have been Trustline registered and to allow counties to issue retroactive payments for up to 60 calendar days, from the date that child care services were requested. If child care was provided in the client's home, in some counties the child care payment may be made directly to the client as the employer. The client is responsible for child care costs until the provider becomes Trustline registered.

Factual Basis:

Current regulations are inconsistent with Health and Safety Code Sections 1596.60-1596.68. Existing statute requires that license-exempt child care providers who receive compensation for services provided for a CalWORKs client must be Trustline registered before payment commences. However, current policy allows the counties to issue payment prior to registration. Education Code Section 8357(e) allows payments to be made to the client as the employer if the child care is provided in the client's home. CDSS is proposing

these non-emergency regulations to ensure the health and safety of the children receiving subsidized child care services and to implement the process changes and update the Manual of Policies and Procedures related to the Trustline Program to conform policy to the existing statute.

Sections 47-620.4 and .41

Specific Purpose:

These sections would increase the health and safety of the children receiving government subsidized child care services. Language has been added to allow counties to immediately cease or prevent payment to providers when the county receives a certified copy of the court's judgment of conviction that states that the provider has been convicted of a crime specified in section 1596.871(f)(1)(A) and (B) of the Health and Safety Code thus protecting children from being placed in potentially harmful situations.

Factual Basis:

License-exempt providers must be Trustline registered or exempt from the Trustline in order to receive payment for child care services pursuant to Health and Safety Code Section 1596.67(a). In order to be registered with the Trustline, the individual cannot be convicted of a crime, unless the individual receives an exemption, pursuant to Health and Safety Code Section 1596.871(f).

Existing Section 47-620.3

Specific Purpose:

This section would repeal language requiring counties to issue payments for child care services once the Trustline application has been received by the Resource and Referral agency.

Factual Basis:

This language would no longer be necessary as these proposed regulations not allow payment until the provider is Trustline registered. Current regulations are inconsistent with Health and Safety Code Sections 1596.60-1596.68. Health and Safety Code Section 1596.66 existing statute requires that license-exempt child care providers who receive compensation for services provided for a CalWORKs client must be Trustline registered before payment commences.

New Section 47-620.5

Specific Purpose:

Counties would be required to immediately cease or prevent payment to providers who have been convicted of a crime specified in Section 1596.871(f)(1) of the Health and Safety Code thus prohibiting government funds from being used to compensate a provider who has failed to receive a background clearance.

Factual Basis:

This section would be adopted to increase the health and safety of the children receiving government subsidized child care services. License-exempt providers must be Trustline registered or exempt from the Trustline in order to receive payment for child care services pursuant to Health and Safety Code Section 1596.67(a). In order to be registered with the Trustline, the individual cannot be convicted of a crime, unless the individual receives an exemption, pursuant to Health and Safety Code Section 1596.871(f).

Section 47-620.6

Specific Purpose:

This section would be amended to increase the health and safety of the children receiving government subsidized child care services. The proposed regulations require the county or contractor to notify the client immediately upon approval of their child care provider's Trustline application. This will allow the client to know that their child is in a safe and healthy environment.

Factual Basis:

Currently, counties are required to inform clients only when their providers are denied Trustline registration or the case file has been closed or revoked. The proposed regulations would also require counties to notify clients when their child care provider's Trustline application has been approved so that clients may continue using the provider.

Section 47-630.1

Specific Purpose:

This section would be amended to increase the health and safety of children in care that is reimbursed with government subsidies. The proposed regulations reduce the number of days a provider has to submit a completed Health and Safety Certification from 28 days to seven days from the date that child care services begins.

Factual Basis:

Existing regulations allow child care providers 28 days to submit a Health and Safety Certification. Limiting the time period during which child care is provided by a person who has not submitted a Health and Safety Certification reduces a potential risk to children's health and safety. In addition, the seven day application requirement will expedite the Health and Safety Certification process, thereby allowing CalWORKs clients to obtain needed child care services in a timely manner so that they may participate in their required Welfare-to-Work activities.

Section 47-630.11

Specific Purpose:

This section would be amended to increase the health and safety of children in care that is reimbursed with government subsidies. The proposed regulations would remove the exemption for great-grandparents, great-aunts, and great-uncles.

Factual Basis:

Existing regulations exempt great-grandparents, great-aunts, and great-uncles from completing a Health and Safety Certification. Disallowing the exemption for these individuals will conform the Health and Safety Certification requirement with the Trustline registry requirement.

b) Identification of Documents Upon Which Department Is Relying

Health and Safety Code Sections 1596.60 through 1596.68.

“Improving Protection for Children Receiving Child Care from Unlicensed Providers”, The Report of the California Performance Review - Government for the People for a Change Health and Human Services (HHS 05). August 2004.

c) Local Mandate Statement

These regulations do impose a mandate upon local agencies, but not upon school districts. The mandate is not required to be reimbursed pursuant to Part 7 (commencing with Section 175000) of Division 4 of the Government Code or Article XIII B, Section 6 of the California constitution, because implementation of the regulations will result in no costs

d) Statement of Alternatives Considered

The following are the alternatives considered to this proposal:

1. To continue current practices and allow payments for up to 28 days prior to submitting the Trustline application. This alternative was rejected due to the fact that it did not meet the Department's goal of increasing protections to children receiving care from license exempt providers.

2. The second option was to disallow payment of Trustline providers for any period of care occurring before they become registered. This alternative was rejected because it is unlikely that providers would be willing to provide care without the possibility of eventual payment. This could result in parents being unable to participate in their welfare to work activities.
3. Another alternative was to conduct a brief preliminary background check using CLETS or CACI. However, only entities with peace officer designations have access to those systems and only for situations specifically identified as "urgent".

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.